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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

VERBATIM RECORD OF THE THREE HUNDRED AND SIXTY-FOURTH MEETING

Held at Graz, Austria,
on Wednesday, 5 June 1991, at 3 p.m.

Chairman: Mr. HOHENFELLNER (Austria)

- Other matters (continued)

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The meeting was called to order at 3.35 a.m.

OTHER MATTERS (continued)

Mr. MAIORSKI (Union of Soviet Socialist Republics) (interpretation from Russian): While still in formal session, and taking advantage of the fact that the Rapporteur is next to me, I should like to make a brief statement concerning yesterday's Soviet statement on consultations on certain draft principles relevant to the use of nuclear power sources in outer space that took place within the framework of the Committee.

Our main thesis yesterday was as follows: the work on agreeing upon the text and on developing it should clearly be carried out by the Legal Subcommittee, which should then submit its concrete results to the Committee so that here in the Committee we could proceed to a second reading of the Subcommittee's draft text. I should like to reiterate this position, which we believe to be the appropriate one.

However, given that the practical outcome of the last session of the Legal Subcommittee was zero, whereas during this session, at least informally, a high degree of consensus was reached on certain aspects of these principles, and given also that the delegations of Canada and Germany carried out considerable work during this session, the Soviet delegation, having somewhat reviewed its position of yesterday - and it always gives us pleasure when we review our position for the better - is prepared not to object to the approval by the Committee of the texts suggested by those two delegations on principles 8 and 9, if such is the will of all delegations.

Clearly, when the delegations of Canada and the Federal Republic of Germany produce the promised version of the working document, it would make sense to ask the representatives here whether the Committee could adopt by

(Mr. Maiorski, USSR)

consensus the part of this document on principles 8 and 9. The Soviet delegation would have no objection to such a procedure.

I should like once again to take this opportunity to express our appreciation for the work carried out by our friends Dr. Marietta Benko and Mr. Richard Têtu.

The CHAIRMAN: I have listened to this news with utmost pleasure, and I should like - preliminarily, since, members know, I am in the hands of the Committee - to express my gratitude to the representative of the Soviet Union.

Mr. TETU (Canada): My delegation welcomes this very significant breakthrough in the negotiations that have been taking place over the past eight days. I am extremely appreciative of the spirit of compromise that has prevailed throughout. I know we had to discuss a few points here and there so as to arrondir les angles, as we say in French. However, I must say that this is a very significant breakthrough and, again, I very much appreciate the change in position that was just expressed by the representative of the Soviet Union.

Ms. REDEKER: There is really nothing I can add to what our colleague from Canada has just said, except that perhaps we could change the phrase "constructive spirit of Geneva" to the "spirit of Graz".

Mr. BOYER (France) (interpretation from French): I think the constructive spirit of Graz does not conflict with the constructive spirit of Geneva or that of New York, for New York certainly has its own merits, which the French delegation has never questioned.

(Mr. Boyer, France)

I simply wish to welcome the statement made by the Ambassador of the Soviet Union and to suggest that, as a follow-up to our work, we might draft a paragraph on a consensus that could be achieved at the very start of the next session of the Legal Subcommittee. The text of that paragraph could be annexed to the texts of principles 8 and 9.

I must say that, while the French delegation is quite pleased to see this consensus - towards which, after all, we did work as a co-sponsor of a text submitted to the Subcommittee's last session - the work and energy of our Canadian and German friends has led to amendment of the text. In the interests of certainty and a strict adherence to the rules, it would be helpful, before we give our consent, to have a text officially submitted by the Secretariat. It would appear that the French delegation would then be very pleased to join in an agreement on this matter.

The CHAIRMAN: As far as the question raised by the representative of France is concerned, the event - if I may call it so - will be duly reflected in the report.

Mr. PERRI (Brazil): I must say that, as a representative of Brazil to this Committee, I have no serious contention on the adoption of principles 8 and 9 by consensus here. But I have doubts about the procedure. I must say this because I have been saying so to the extraordinary representatives of Canada and Germany, who have worked so hard here in trying to obtain this consensus.

I do not object to it, but I do have doubts about the procedure and the method of negotiating this entire matter. I must say that I would prefer to have true multilateral negotiations and not negotiations delegation by delegation, as has occurred during this session and at the last few sessions of the Legal Subcommittee and the main Committee.

(Mr. Perri, Brazil)

I would have preferred a different method of work. I would have preferred a true multilateral negotiation. I have trouble explaining to my country and my people how this consensus happened. I have serious trouble in explaining to my Government in Brasilia how this consensus is to be adopted here. I will try my best, but I have doubts that they will understand the procedure. As a representative, I must point out that the method of trying to arrive at a consensus delegation by delegation is not the best.

I suggest that, from now on, we adopt a different method of work. I feel free to say this because I have been saying so to my Canadian and German friends. Without objecting to the consensus on principles 8 and 9, I would say that, as a delegation, we have already reported to Brasilia the difficulties that confronted us during this session in negotiating this entire set of principles, which is of first priority for my Government. I feel that adopting principles 8 and 9 by consensus now does not preclude my country from discussing principles 1A and 4, which I understand are open for discussion, especially where they deal with the question of prior notification.

I have instructions from my Government to stress the need for having the elements of notification included properly in principle 4. I am afraid that I am lagging behind the negotiations, and if I am please let me know, because I will object to any consensus on principle 4 and on the absence of principle 2 if this is the trend of the Committee. That is a national position and an instruction that I must follow during this debate. In saying this, I am ready to adopt principles 8 and 9 by consensus, but I am not ready to go on negotiating this way.

The CHAIRMAN: The statement of the representative of Brazil gives me the opportunity to make the following points.

(The Chairman)

First of all, I would like to express my deep gratitude to the representative of Brazil, who has given a very important sign of compromise which, I hope, everyone in the Committee will honour because I know Brazil's position is clear. Therefore, in the light of what our colleague and friend from Brazil has said, we are very grateful to him.

Secondly, I would like firmly to commit myself to the fact that all delegations - and I underline all - should be fully included in the further stages of our opinion-building process on nuclear power sources and at every stage of opinion building on all other agenda items. I myself am a convinced democrat and I know that it is very important for all delegations to have the possibility to participate in this opinion-building process. I would therefore like to assure our colleague and friend from Brazil that I will take very careful note of what he has said. I would like again to reiterate my gratitude for the spirit of compromise and cooperation the Brazilian delegation has shown at this very crucial moment of our Committee's work.

Mr. BOYER (France) (interpretation from French): I fully understand the concerns expressed by the representative of Brazil, because I was actually in a rather similar situation last year as regards principle 8. A report was adopted in accordance with which the Committee noted that the text:

(spoke in English)

"would provide a good basis for near future consensus".

(spoke in French)

I made a reservation at that time, and at the 1991 session of the Subcommittee I had to exercise the prerogatives that are reserved for each representative to oppose a consensus when he did not agree with the text.

(Mr. Boyer, France)

I wonder if the problem is not simply that, in such a case, every delegation must make it known whether or not it is in agreement. If the delegation is in agreement, it should make that known; and if not, it should not hesitate to say so. This may sometimes be unpleasant, but we must know how to make use of the rights provided us under United Nations procedure.

I have a few doubts as to the efficiency of a procedure that involves discussion in plenary meeting of this or that possibility for making progress. Experience shows that important texts have been adopted through informal consultations, the principle being that one can choose to participate in them or not. The question lies really in whether we should proceed in plenary meeting or in informal consultations.

On a strictly procedural level, although I fully agree on the substance, I continue to wonder whether it is fitting for the Committee to adopt by consensus a text that was not first adopted in consensus in the Legal Subcommittee. The report - and this is a personal opinion which I am prepared to withdraw should I be proved wrong - should reflect an agreement to the effect that principles 8 and 9 be adopted by consensus at the next session of the Subcommittee. At that time, each delegation will be able to reserve the right to withhold the consensus. This will provide sufficient guarantee to each delegation that multilateral negotiations - which, by definition, would be intense - are not needed and would lead to a deadlock in the discussions.

Those are my own personal thoughts. They are not instructions that I have received, but I believe that we must be concerned not only with the efficiency of work but also with the sovereign prerogatives of each delegation.

The CHAIRMAN: I have two additional points of clarification in the light of the statement of the Ambassador of France.

First of all, it is absolutely clear that the open plenary meeting is not necessarily a drafting exercise. But I am a fervent supporter of democracy, and that means exactly what the representative of Brazil has said. Of course, we can do that in informal consultations of the whole, where all delegations have the sovereign right - and I am sticking to this principle - to say whatever they have as instructions.

In answer to the Ambassador of France, with whom I agree, the form is of course that this should be done in informal consultations of the whole, where full conference facilities allow every delegation the possibility to express itself in the working languages of the United Nations. I believe that this is the appropriate way to do that.

As far as the second point made by the representative of France is concerned, I have already said that we shall adequately reflect the consensus found in the Committee on principles 8 and 9 in the language of the report. That resolves the problem and there will be no additional procedural problem on this matter.

Mr. TETU (Canada): I believe that your last comment, Sir, was very helpful. I merely wanted to add that, obviously, the Committee is master of its own procedures. If, as I see it - especially after having listened to the statement of the representative of Brazil, which I appreciated very much - there is indeed a consensus on those two principles, it should be reflected accordingly in the report. That is all I wish to say, and I am very grateful for the assistance you have provided to us, Mr. Chairman.

Mr. ZAMELS (Argentina) (interpretation from Spanish): There is little I wish to add, following your clarifications, Mr. Chairman, and those of the representative of Canada. I merely want to say that my delegation also welcomes the consensus that is building on principles 8 and 9. My delegation fully endorses them, although we cannot yet give a definitive opinion because we do not have the definitive text of these principles.

Our other concern was as to the procedure we were planning to follow in adopting these principles, but I believe that has now been clarified.

The CHAIRMAN: As I have said before, the agreement we reached preliminarily, taking into account the views of all delegations of this Committee - and all delegations here are on an equal footing and I am sticking to that principle - it will be duly reflected in the report.

Mr. HERNANDEZ BASAVE (Mexico) (interpretation from Spanish): The delegation of Mexico would like briefly to echo the words and ideas of the representative of Brazil. I would like to point out that my country, like many developing countries, does not use nuclear power sources in outer space. However, the subject is of great interest to us, for two main reasons.

First, we believe that other items inscribed on the agenda now and in the past had contributed to the progressive development of international law in outer space. That is a question of principle for my country, and we thank Canada, Germany and other countries that actively promote that progressive development. Secondly, although we are not users of nuclear power sources, we are a neighbour of one of the main space Powers our country, and Mexico, is very close to that Power's launching areas. In this respect, some aspects of these principles are of great interest to us, since their elaboration would give us a legal framework of equal value to United Nations resolutions that are guiding us towards international coexistence.

(Mr. Hernandez Basave, Mexico)

Mexico does not have any specific or substantive proposal to make on principles 8 and 9, but we do have something to say about principle 7. In the case of an object carrying a nuclear power source accidentally re-entering Earth's atmosphere and causing damage to a country that is not the launching country, we share many of the concerns of Brazil and other countries as regards notification. We have made our preference known that notification should be made prior to launching. In this regard, at the last session of the Legal Subcommittee we supported the proposal put forward by Brazil that is reflected in the report.

(Mr. Hernandez Basave, Mexico)

As I have said, we have no specific proposal for principles 8 and 9, but we do regret that the delegation of Mexico was not duly informed of the evolution of the informal negotiations that were carried out at this session. Like the delegation of Argentina, we are awaiting the definitive text, although thanks to our friend from Canada we now have a clearer idea as to how the latest consultations went.

The delegation of Mexico will not oppose the adoption of principles 8 and 9 by consensus here, and that will be reflected in the report. But we do wish Mexico's position on the matter to be made clear, as well as on the manner in which the negotiations were carried out.

Mr. ABDEL MONEIN (Egypt) (interpretation from Arabic): We welcome the consensus that has emerged on principles 8 and 9. However, we would have liked that consensus to have been reached in the usual way. In other words, each and every delegation should have been notified of the consensus, or a working group should have been constituted in order to find a solution in a formal or quasi-formal way before it was discussed in plenary meeting.

We believe that the three subjects before the Legal Subcommittee have equal importance and that agreement encompassing all three must be reached. Though there may be progress on one specific subject, we should reach agreement on all three without any precedence or priority being given to one over the other two, because the three combined are of importance to the international community as a whole.

From this standpoint, and since there is a possible consensus in the Committee, we wish first to note the importance of the observation made by the Ambassador of France regarding procedural matters and our method of work, with particular emphasis on the role of the Legal Subcommittee. Why can we not refer to that frankly and openly in the Committee's report?

(Mr. Abdel Monein, Egypt)

Secondly, we should not preclude the possibility of delegations making statements on principles 8 and 9 during the next session of the Legal Subcommittee.

The CHAIRMAN: I will of course take serious note of the remarks of the representative of Egypt.

Mr. BOYER (France) (interpretation from French): Naturally, I listened carefully to the statement just made by the representative of Egypt. I do not really see, however, how he can hope for agreement to be arrived at simultaneously on the geostationary orbit, on the new item and on nuclear power sources. I think that would be difficult to pull off.

I had asked some questions because I myself needed clarification, but I believe that they have been answered clearly and that - if I have correctly understood your words, Mr. Chairman - it is fitting that the Committee adopt these principles by consensus. Given that opinion, which could not be clearer, the French delegation feels that we could perfectly well seek a consensus on principles 8 and 9 at this session. Of course, any delegation is free to oppose it, if it so wishes. But since the French delegation's questions have been resolved, we feel that there is no need to postpone the search for consensus within the Committee.

The CHAIRMAN: I have made it perfectly clear - and that was just corroborated by the statement of the Ambassador of France - that, first of all, from the procedural point of view, it is correct that, with the agreement found on principles 8 and 9 - which is, I think, an important breakthrough - the reservations of many delegations will be taken into account. I am committed to these reservations, for instance those voiced by the delegation of Brazil, being duly reflected in the report. That is the right way to do it.

(The Chairman)

Secondly, as I have pointed out before, one of my serious concerns as the new Chairman of the Committee - and I think I am following a good tradition in this respect - is that, if we combine the clear democratic principle that all delegations enjoy equal footing with the principle of efficiency of the Committee and its Subcommittees, we will have to deal with such matters in informal consultations, as the representative of France has suggested. Such consultations will always be open-ended, which means that all delegations in the Committee will have the opportunity to participate in them. Certainly, on other important matters in the future - the representative of Mexico, for instance, alluded to the important concerns of his delegation on other principles on nuclear power sources - all delegations will be duly informed and will have the opportunity to take part in the opinion-building process.

May I request any other delegation wishing to speak at this stage to be very brief, so that we can immediately move on, in informal meeting, to consideration of the Committee's report.

Mr. TETU (Canada): I shall be very brief indeed. I think it is essential that we distribute a text as soon as possible to all of the delegations that have not necessarily been consulted directly by us or by the German delegation.

The CHAIRMAN: The Secretary of the Committee is in charge of distributing this text to all delegations as soon possible so that they may familiarize themselves with it.

We have just concluded our debate on "Other matters" and on important developments in the Committee.

The meeting rose at 4.10 p.m.